

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
(DANVILLE DIVISION)**

UNITED STATES OF AMERICA)
)
v.) Case Number: 4:18CR00011-04
)
DASHAUN LAMAR TRENT)

DEFENDANT'S RESPONSE TO GOVERNMENT'S WITHDRAWAL OF APPEAL

COMES NOW Your Defendant, Dashaun Lamar Trent, and hereby gives notice to the United States that, notwithstanding the filing by the United States withdrawing her appeal [ECF 637], the jurisdiction of this Court has been divested and now lies with the United States Court of Appeals for the Fourth Circuit until such time as that Court issues its mandate returning jurisdiction to back to the district court. Counsel for the United States do not have the authority, statutory or otherwise, to declare as "moot"¹ any particular defendant's motion to stay proceedings. As Judge Easterbrook clearly, and without any ambiguity, noted: "[j]ust as the notice of appeal transfers jurisdiction to the court of appeals, so the mandate returns it to the district court. Until the mandate issues, the case is "in" the court of appeals and any action by the district court is a nullity.²

The case at bar is now "in" the Fourth Circuit and trial counsel for Dashaun Lamar Trent are now appellate counsel as evidenced by order dated August 22, 2019, wherein

¹ United States' Notice of Withdrawal of Notice of Appeal [ECF 637].

² *Kusay v. United States*, 62 F.3d 192, 194 (7th Cir. 1995) citing *United States v. Wells*, 766 F.2d 12, 19 (1st Cir.1985); *Zaklama v. Mt. Sinai Medical Center*, 906 F.2d 645, 649 (11th Cir.1990); 16 Charles Alan Wright, Arthur R. Miller, Edward H. Cooper & Eugene Gressman, Federal Practice & Procedure Sec. 3949 at 359 (1977).

the United States Court of Appeals for the Fourth Circuit appointed Christopher Karl Kowalcuk and Patrick Jon Kenney as lead counsel and co-counsel respectively in case number 19-4607 on the Fourth Circuit's docket.

GOVERN YOURSELF ACCORDINGLY,

Respectfully submitted,

DASHAUN LAMAR TRENT

By /s/ Chris K. Kowalcuk

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CERTIFICATE OF SERVICE

I, Chris K. Kowalcuk, Esquire, hereby certify that on this 22nd day of August, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Chris K. Kowalcuk